

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

_____	)	
BASIL A. FRYE	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:09-C-0977
	)	
THOMPSON STEEL COMPANY, INC.,	)	
a Massachusetts Corporation,	)	Magistrate Judge Cole
	)	
Defendant.	)	
	)	
_____	)	

**PLAINTIFF BASIL A. FRYE’S MOTION FOR JUDGMENT ON THE  
ADMINISTRATIVE RECORD**

NOW COMES Plaintiff, BASIL A. FRYE (“Frye”), by and through his attorneys, MOMKUS McCLUSKEY, for his Motion for Judgment on the Administrative Record, states as follows:

1. Plaintiff moves that this Court enter an Order granting his Motion for Judgment on the Administrative Record, and in support thereof incorporates by this reference his Memorandum of Law as though fully set forth herein.

WHEREFORE, the Plaintiff, BASIL A. FRYE, requests a declaratory judgment declaring, finding and ordering:

A. That this Court declare and adjudicate the rights, obligations and liabilities of Basil A. Frye and Thompson Steel Company, Inc. with respect to the Retirement Plan;

B. That this Court declare and adjudicate that Basil A. Frye does not have a “permanent disability” according to that term’s meaning in the Retirement Plan;

C. That this Court declare and adjudicate that Basil A. Frye should have started receiving his monthly pension benefits from Thompson Steel Company, Incorporated on September 1, 2007 in the amount of \$688.13 per month;

D. That this Court declare and adjudicate that Basil A. Frye be paid by Thompson Steel Company, Incorporated for every month since September, 2007 that he did not receive his pension benefit, plus interest;

E. That this Court declare and adjudicate that Thompson Steel Company, Incorporated is henceforth obligated to pay Basil A. Frye his monthly pension benefits of \$688.13 on a monthly basis and any other benefits that commence with the release of his pension funds;

F. That this Court declare and adjudicate that Thompson Steel Company, Incorporated is obligated to pay for Basil A. Frye's attorneys fees and costs incurred in bringing this action to recoup his pension benefits, pursuant to §1132(g)(1) of ERISA;

G. That this Court enter judgment in Basil A. Frye's favor and against the Thompson Steel Company, Incorporated; and

H. For any other or further relief this Court deems just and equitable.

Respectfully Submitted,

By: /s/ Jennifer L. Friedland  
One of His Attorneys

James F. McCluskey  
Jennifer L. Friedland  
Momkus McCluskey, LLC  
1001 Warrenville Road, Suite 500  
Lisle, IL 60532  
630.434.0400  
630.434.0444 Fax  
Attorneys for the Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that on July 27, 2009, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

Heather Egan Sussman  
McDermott Will & Emery LLP  
28 State Street  
Boston, MA 02109

Michael T. Graham  
McDermott Will & Emory LLP  
227 West Monroe Street  
Chicago, Illinois 60606

/s/ Jennifer L. Friedland  
Jennifer L. Friedland

W:\26\_59\4174.070370\Pleadings\MotJudgmentRecord.doc